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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	:	Customer Number: 46320
	:	
Alex TSUI, et al.	:	Confirmation Number: 3011
	:	
Application No.: 10/730,656	:	Group Art Unit: 2163
	:	
Filed: December 8, 2003	:	Examiner: A. Lie
	:	
For: UNIFIED LOGGING SERVICE FOR DISTRIBUTED APPLICATIONS	:	

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed March 29, 2007, in response to the Examiner reopening prosecution in the Office Action dated July 16, 2007, and in response to the Examiner reopening prosecution in the Office Action dated January 9, 2008, wherein Appellants appeal from the Examiner's rejection of claims 1-15 and 19-25.

I. REAL PARTY IN INTEREST

This application is assigned to IBM Corporation by assignment recorded on December 8, 2003, at Reel 014802, Frame 0041.

II. RELATED APPEALS AND INTERFERENCES

Appellants are unaware of any related appeals and interferences.

III. STATUS OF CLAIMS

Claims 1-15 and 19-25 are pending and four-times rejected in this Application. Claims 16 and 17 have been cancelled, and claim 18 was inadvertently omitted from the originally-filed application. It is from the multiple rejections of claims 1-15 and 19-25 that this Appeal is taken.

IV. STATUS OF AMENDMENTS

The claims have not been amended subsequent to the imposition of the Fourth Office Action dated January 9, 2008 (hereinafter the Fourth Office Action).

V. SUMMARY OF CLAIMED SUBJECT MATTER

Referring to Figure 4 and also to independent claim 1, a method of providing a unified logging service is disclosed. The method is for use in a network having a plurality of nodes capable of generating event logs, and the unified logging service has a unified log server and repository. In step 304, an event log file of a first log type and structure associated with a sending node is converted into a predefined format (lines 3-8 of paragraph [0052] of Appellants' disclosure). In step 310, the converted event log file is transmitted over the network to the unified log server (lines 12-13 of paragraph [0052]). In step 312, the converted event log file is received by the unified log server (lines 13-14 of paragraph [0052]). In step 316, the log type of the converted log file is determined and the converted log file is routed to a log handler compatible with the log type and the predefined format (lines 16-18 of paragraph [0052]). In step 320, a receiving node compatible with the log type for the converted event log file is identified, and the converted event log file is forwarded from the log handler to the identified receiving node (lines 18-20 of paragraph [0052]).

Referring to Figure 3 and also to independent claims 9 and 11, a system for providing a unified logging service is disclosed. A sending node 30 includes a first structure, and an event log file 32 having a first log type associated with the sending node 30 (lines 1-8 of paragraph [0044]). A log adapter 36 for the sending node 30 converts the event log file 32 from the first structure to a predefined format (lines 6-7 of paragraph [0046]). The converted event log file is transmitted across the network and received at unified logging server 50 [lines 1-2 of paragraph [0046]). A log processor 54 determines the log type of the converted event log file and a log handler 58, 60, 62 suitable for the log type to which the converted event log file is to be forwarded (lines 1-6 of paragraph [0047]). A receiving node 38, 48 for the converted event log file is identified and the converted event log file is forwarded to the identified receiving node 38, 48 (lines 1-5 of paragraph [0050]).

Referring to Figure 4 and also to independent claim 19, an article of manufacture comprising a processor useable medium having a processor readable program embodied in said medium is disclosed. The processor readable program when executed on or more processors causes the processors to perform the following method. The method is for use in a network having a plurality of nodes capable of generating event logs, and the unified logging service has a unified log server and repository. In step 304, an event log file of a first log type and structure associated with a sending node is converted into a predefined format (lines 3-8 of paragraph [0052] of Appellants' disclosure). In step 310, the converted event log file is transmitted over the network to the unified log server (lines 12-13 of paragraph [0052]). In step 312, the converted event log file is received by the unified log server (lines 13-14 of paragraph [0052]). In step 316, the log type of the converted log file is determined and the converted log file is routed to a log handler compatible with the log type and the predefined format (lines 16-18 of paragraph

1 [0052]). In step 320, a receiving node compatible with the log type for the converted event log
2 file is identified, and the converted event log file is forwarded from the log handler to the
3 identified receiving node (lines 18-20 of paragraph [0052]).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 1, 4-11, 13, 15, 19, and 22-25 were rejected under 35 U.S.C. § 102 for anticipation based upon Hirata et al., U.S. Patent No. 6,219,701 (hereinafter Hirata); and

2. Claims 2-3, 12, 14, and 20-21 were rejected under 35 U.S.C. § 103 for obviousness based upon Hirata in view of Sullivan et al., U.S. Patent Publication No. 2004/0172284 (hereinafter Sullivan).

VII. ARGUMENT

**THE REJECTION OF CLAIMS 1, 4-11, 13, 15, 19, AND 22-25 UNDER 35 U.S.C. § 102 FOR
ANTICIPATION BASED UPON HIRATA**

For convenience of the Honorable Board in addressing the rejections, and claims 4-11, 13, 15, 19, and 22-25 stand or fall together with independent claim 1.

The factual determination of anticipation under 35 U.S.C. § 102 requires the identical disclosure, either explicitly or inherently, of each element of a claimed invention in a single reference.¹ Moreover, the anticipating prior art reference must describe the recited invention with sufficient clarity and detail to establish that the claimed limitations existed in the prior art and that such existence would be recognized by one having ordinary skill in the art.² As part of this analysis, the Examiner must (a) identify the elements of the claims, (b) determine the meaning of the elements in light of the specification and prosecution history, and (c) identify corresponding elements disclosed in the allegedly anticipating reference.³ This burden has not been met.

¹ In re Rijckaert, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); Perkin-Elmer Corp. v. Computervision Corp., 732 F.2d 888, 894, 221 USPQ 669, 673 (Fed. Cir. 1984).

² See In re Spada, 911 F.2d 705, 708, 15 USPQ 1655, 1657 (Fed. Cir. 1990); Diversitech Corp. v. Century Steps, Inc., 850 F.2d 675, 678, 7 USPQ2d 1315, 1317 (Fed. Cir. 1988).

³ Lindermann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984).

Claim 1

Independent claim 1 recites, in part, the following limitations:

determining the log type of the converted log file and *routing the converted log file to a log handler compatible with the log type and the predefined format.* (emphasis added)

To teach the underlined portion of the above-reproduced passage, the Examiner cited column 6, lines 48-53 and asserted "expansion of the information requires determination of the type of the information/log." To teach the italicized portion of the above-reproduced passage, the Examiner cited computer 402-407, column 6, lines 52-60 and asserted "identifying type of event information/log, i.e. what does the event refer to (power, print or execution unit)." For ease of reference column 6, lines 48-60 are reproduced below:

In the computers 402 to 407 to which the operation definition information is distributed, the definition information expanding unit 114 owned by the integrated management agent 113 expands operation definition information of a portion related to the own computer from the distributed operation definition information. The definition information expanding unit 114 transfers the expanded operation information to the operation execution unit such as the job execution control unit 110, the power supply control unit 111, and the print execution control unit 112 (step 603). The operation execution unit executes the administrative operation defined by the respective transferred operation definition information (step 604). (emphasis added)

As will be further described below, Appellants entirely disagree with the Examiner's assertions as to the above-identified claim limitations. As emphasized in underline above, the passage identified by the Examiner refers to expanding operation definition information. As described throughout Hirata (e.g., column 4, lines 49-51 and 64-67; column 7, lines 21-24), operation definition information is information used to define schedules of administrative operations by computers 402 to 407 (see also column 6, lines 53-60). As readily apparent, the operation definition information is entirely different that the log information that is sent from the computers 402 to 407 to the managing computer 401.

1
2 Although the Examiner appears to be asserting that the determination of "what does the
3 event refer to (power, print or execution unit)" teaches the claimed identifying the type, these are
4 complete different. The type being identified, as claimed, is of the log. On the contrary, the
5 Examiner's analysis refers to types of control units. Thus, the passage cited by the Examiner
6 does not identically disclose the claimed "determining the log type of the converted log file."
7 Appellants also note that the Examiner's assertion that "expansion of the information requires
8 determination of the type of the information/log" is factually unsupported. The passages cited by
9 the Examiner is silent not only as to the log type of the converted log file, these passages are
10 silent as to the converted log file itself.

11
12 As to the claimed "log handler," Appellants note that the Examiner has failed to establish
13 a claim construction for this phrase. Appellants' position is that the computers 402 to 407 of
14 Hirata are not log handlers, as claimed. Notwithstanding a lack of a claim construction for "log
15 handler," the Examiner's analysis raises certain fundamental questions. Specifically, based the
16 Examiner's claim construction, Appellants are unclear as to why Hirata would perform the
17 functions attributed to Hirata by the Examiner.

18
19 As asserted by the Examiner, a log in a computer (i.e., 402 to 407) is converted to a
20 common format and sent to a managing computer 401. The Examiner's then asserts that a
21 definition information expanding unit 114 within the same computer (e.g., 402) determines the
22 log type of the converted log file so as to expand the operation definition information. Based

1 upon this log type, the converted log file is routed to the same computer (i.e., allegedly
2 corresponding to the "log handler").

3
4 The unanswered questions presented by the Examiner's analysis is why would the "same"
5 computer have to determine the log type of the converted log file when the "same" computer
6 (e.g., 402) was the entity that created the converted log file in the first place? Moreover, why
7 would the converted log file first be sent from the same computer (e.g., 402) to the managing
8 computer 401 when the converted log file would then be routed back to the same computer (e.g.,
9 402)? If the Examiner's interpretation is to be followed, the steps of converting the event log,
10 sending the event log to the unified log server, determining the type of the converted log file and
11 routing the converted log file back to the original computer would be unnecessary. Therefore,
12 Appellants' position is that one having ordinary skill in the art would not have recognized that
13 Hirata teaches the above-identified claim limitations.

14
15

16 Independent claim 1 recites, in part, the further recites the following limitations:

17 identifying a receiving node compatible with the log type for the
18 converted event log file, and forwarding the converted event log file from the log
19 handler to the identified receiving node.

20
21 With regard to these limitations, the Examiner cited column 6, lines 55-60 of Hirata and asserted
22 "forwarding the converted event log file from the log handler to the identified receiving node ...
23 i.e. power supply control unit, print execution control unit or job execution control unit."

1 As already noted, the Examiner's cited passage of column 6, lines 55-60 is entirely silent
2 as to the converted log file. As to the claimed "receiving node," the Examiner has also failed to
3 establish a claim construction for this phrase. Notwithstanding the Examiner's failure to provide
4 a claim construction for this term, Appellants note that the claim limitations at issue describe
5 forwarding the converted event log file from the log handler to the identified receiving node.
6 The identical disclosure of these limitations, however, has not been established by the
7 Examiner's analysis.

8
9 The Examiner has previously asserted that the "computers 402-407" disclose the claimed
10 log handlers, and the Examiner asserted that the power supply control unit 111, print execution
11 control unit 112, and job execution control unit 110 disclose the claimed receiving node.
12 However, the converted event log file is not forwarded from the computers 402-407 to the power
13 supply control unit 111, print execution control unit 112, and job execution control unit 110,
14 since these control units 110, 111, 112 are already within the computers 402-407. Therefore, the
15 Examiner's analysis yet again runs into logical inconsistencies.

16
17 Therefore, for the reasons submitted above, Appellants respectfully submit that the
18 Examiner has failed to establish that Hirata identically discloses all of the claimed limitations
19 within the meaning of 35 U.S.C. § 102.

20
21 **THE REJECTION OF CLAIMS 2-3, 12, 14, AND 20-21 UNDER 35 U.S.C. § 103 FOR**
22 **OBVIOUSNESS BASED UPON HIRATA IN VIEW OF SULLIVAN**

23 For convenience of the Honorable Board in addressing the rejections, and claims 2-3, 12,

14, and 20-21 stand or fall together with independent claim 1.

Claims 2-3, 12, 14 and 20-21 depend ultimately from independent claims 1, 11, and 19, and Appellants incorporate herein the arguments previously advanced in traversing the imposed rejection of claims 1, 11, and 19 under 35 U.S.C. § 102 for anticipation based upon Hirata. The secondary reference to Sullivan does not cure the argued deficiencies of Hirata. Accordingly, even if one having ordinary skill in the art were motivated to modify Hirata in view of Sullivan, the proposed combination of references would not yield the claimed invention. Appellants, therefore, respectfully submit that the imposed rejection of claims 2-3, 12, 14, and 20-21 under 35 U.S.C. § 103 for obviousness based upon Hirata in view of Sullivan is not viable.

Conclusion

Based upon the foregoing, Appellants respectfully submit that the Examiner's rejections under 35 U.S.C. §§ 102, 103 based upon the applied prior art is not viable. Appellants, therefore, respectfully solicit the Honorable Board to reverse the Examiner's rejection under 35 U.S.C. §§ 102, 103.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due under 37 C.F.R. §§ 1.17, 41.20, and in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: April 7, 2008

Respectfully submitted,

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CUSTOMER NUMBER 46320

VIII. CLAIMS APPENDIX

1. A method of providing a unified logging service, for use in a network having a plurality of nodes capable of generating event logs, wherein said unified logging service having a unified log server and repository, comprising the steps of:

converting an event log file of a first log type and structure associated with a sending node into a predefined format;

transmitting the converted event log file over the network to the unified log server;

receiving the converted event log file by the unified log server;

determining the log type of the converted log file and routing the converted log file to a log handler compatible with the log type and the predefined format;

identifying a receiving node compatible with the log type for the converted event log file, and forwarding the converted event log file from the log handler to the identified receiving node.

2. The method of claim 1, further comprising the step of:

acknowledging receipt of the converted event log file by the identified receiving node to the sending node.

3. The method of claim 2, further comprising the step of:

converting the acknowledgement to the predefined format.

4. The method of claim 1, further comprising the step of:

storing the converted log file in the repository.

5. The method of claim 1, wherein the predefined format comprises a unified logging format including a header and a body.

6. The method of claim 5 wherein the header contains information comprising:

a server identifier;

a log system identifier;

a log type identifier; and

a log create timestamp.

7. The method of claim 5 wherein the body contains transaction information as defined by the unified logging service, comprising:

a message portion, wherein the message portion is further defined by fields specific to the log type; and

a time stamp portion.

8. A computer readable storage medium tangibly embodying programmed instructions for performing the method of any of claims 1 to 7.

9. An apparatus for providing a unified logging service, comprising:

a unified logging server;

means for receiving an event log file at the unified logging server;

a log adapter for converting the event log file from a first structure to a predefined format;

means for determining a log type of the converted event log file and a log handler suitable for the log type;

means for forwarding the converted event log file to the log handler;

means for identifying a receiving node;

means for forwarding the converted event log file to the identified receiving node.

10. The apparatus of claim 9 further comprising:

a repository; and

means for storing the converted log file in the repository.

11. A system for providing a unified logging service comprising:

a sending node having a first structure;

an event log file having a first log type associated with the sending node;

a log adapter for the sending node for converting the event log file from the first structure to a predefined format;

means for transmitting the converted event log file across the network to a unified logging server;

means for receiving the converted event log file at the unified logging server;

means for determining the log type of the converted event log file and a log handler suitable for the log type;

means for forwarding the converted event log file to the log handler;

means for identifying a receiving node for the converted event log file;

means for forwarding the converted event log file to the identified receiving node.

12. The system of claim 11 further comprising:

means for acknowledging receipt of the converted event log file by the identified receiving node to the sending node.

13. The system of claim 11 further comprising:

a log adapter for the receiving node for converting the predefined format to an event log file of the first structure.

14. The system of claim 12 further comprising:

means for converting the acknowledgement to the predefined format.

15. The system of claim 11 further comprising means for storing the converted log file in the repository.

19. An article of manufacture comprising a processor useable medium having a processor readable program embodied in said medium, wherein the processor readable program when executed on or more processors causes the processors to:

convert an event log file of a first log type and structure associated with a sending node into a predefined format;

transmit the converted event log file onto a network to a unified log server;

receive the converted event log file by the unified log server;

determine the log type of the converted log file and rout the converted log file to a log handler compatible with the determined log type and the predefined format;

identify a receiving node compatible with the log type for the converted event log file, and forward the converted event log file from the log handler to the identified receiving node.

20. The article of manufacture of claim 19, wherein the processor readable program causes one or more processors to:

acknowledge receipt of the converted event log file by the identified receiving node.

21. The article of manufacture of claim 20, wherein the processor readable program causes one or more processors to:

convert the acknowledgement to the predefined format.

22. The article of manufacture of claim 19, wherein the processor readable program causes one or more processors to:

store the converted log file in the repository.

23. The article of manufacture of claim 19, wherein the predefined format comprises a unified logging format including a header and a body.

24. The article of manufacture of claim 23, wherein the header contains information comprising:

- a server identifier;
- a log system identifier;
- a log type identifier; and
- a log create timestamp.

25. The article of manufacture of claim 23, wherein the body contains transaction information as defined by the unified logging service, comprising:

- a message portion, wherein the message portion is further defined by fields specific to the log type; and
- a time stamp portion.

IX. EVIDENCE APPENDIX

No evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the Examiner has been relied upon by Appellants in this Appeal, and thus no evidence is attached hereto.

X. RELATED PROCEEDINGS APPENDIX

Since Appellants are unaware of any related appeals and interferences, no decision rendered by a court or the Board is attached hereto.